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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/982,013 | 10/19/2001 | Chern-Muh Wang | 3313-0389P-SP | 7096 |
| 2292 | 7590 | 10/18/2004 | EXAMINER | |
| BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747 | | | VU, TUAN A | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2124 | |

DATE MAILED: 10/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/982,013

Applicant(s)

WANG, CHERN-MUH

Examiner

Tuan A Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to the application filed October 19, 2001.

Claims 1-8 have been submitted for examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perks, USPN: 5,924,102 (hereinafter Perks), in view of Hunter et al., USPN: 6,161,176 (hereinafter Hunter).

As per claim 1, Perks discloses a method for subserving preloaded programs used to subserve to generate a planning file needed by the preloaded programs; the method comprises:

searching a file which contains installation flow data of the preloaded software (e.g. *OS2.SYS.INI* col. 3, lines 1-21);

duplicating the installation flow data of the preloaded software (e.g. *backup, critical file store 62, ... initiate a critical file backup* - col. 3, line 46 to col. 4, line 8 – Note: backup the setup files is equivalent (i.e. reads on) to duplicating installation flow data of preloaded software); and

storing the installation flow data of the preloaded software (e.g. *... also a critical file* - col. 3, lines 46-50; *critical file database 60* , Fig. 2).

But Perks does not explicitly disclose storing installation flow data at a corresponding position of the database file; but in view that such database file operates as a database for

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recording that installation data, the placing of each duplicated data file name in such database implicitly discloses such entry being placed at a corresponding position in such database file.

Nor does Perks disclose increasing a number of the preloaded software and that the database file is a planning file. But Perks' method teaches a persistent storage information based on which to make accommodations for restarting or restoring computer programs upon shut down or reboot; and further discloses an manager to determine what application, file or application need to be restore or backup (e.g. Fig. 3b); hence has suggested a tracking system to notify by scanning among the database storage the number of entries that need to be backed up or restored upon system restart. Hunter, in a system using a wizard operable to manage, record and identify the installation data of software in a first system in order to transfer the corresponding settings into a second or target system (e.g. Fig. 2), and this is analogous to the shutdown and restart by Perks in that installation settings are saved prior to being recovered into the destination system; and further discloses a configuration file (e.g. col. 11, lines 15-65; *configuration file 82* – Fig. 2)collecting the entries deemed appropriate by the wizard or the user (e.g. col. 12, lines 24-50) for setting the software and installation on the target system. Hence, the electing is suggesting keeping track of how many installation settings that require being re-activated or restored at the target system, i.e. by maintaining a count in the configuration file. In view of Perks's intent to make efficient use of persisted settings data files used for restoring computer system programs by analysis of what has been previously stored by the backup manager, it would have been obvious for one of ordinary skill in the art at the time the invention was made to implement a configuration or planning file as taught by Hunter so that settings for restoration or reinstallation can be tracked via the number being incremented for each entry

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deemed needed for the target computer restoration, and apply this to the restoration method by Perks, because as suggested by Hunter, selectively keeping track of the amount of programs according to a configuration or plan to reactivate or restore that target system would save system resources and alleviate redundancy due to systematic retransfer of files (e.g. col. 10, lines 5-16; col. 12, lines 24-36)

As per claim 2, see Perks, col. 3, lines 8-18.

As per claim 3, the tracking of entries as taught by the configuration file as taught by Hunter implicitly discloses determining what entries need to be tagged or marked for system reinstallation as being mentioned in the rejection of claim 1; and although Hunter does not specifically disclose labeling 1 or increasing the number when an elected entry is entered in the configuration file, the limitation as, upon determining that a preloaded software is first, to label it as number 1 or else as an increment of a previous count when building a planning file as set forth above in claim 1 would have been obvious in light of the rationale therein because by numbering and keeping track of entries, the chance of error or redundancy would be averted according to the intent to optimize resources by Hunter as mentioned in claim 1.

As per claims 4 and 5, official notice is taken that storing a entry related to file or program into a persistent record such as file or database so that a name is stored at a starting position of such record was a known concept at the time the invention was made. Hence, according to the storing of installation data by Perks into a database (*critical file database 60*, Fig. 2) and in light of the above notice, this above teaching is implicitly disclosed.

As per claim 6, the storing of a file name in a configuration file as mentioned from the combination Perks/Hunter from claim 1 implicitly discloses a software name associated with a

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number identifying the count order of such name being recorded; hence, the limitation as to storing a name at the start position according to a sequential number would also have been implicitly disclosed as per claims 4-5 and/or the rationale set forth in claim 1.

As per claim 7, the sequential storing of installation flow data under a name is suggested by Hunter (e.g. col. 7, lines 4-67); and in combination with the rationale to store reinstallation flow data in a planning file as put forth in the rationale of claim 1, the limitation as storing the installation flow data as shown by Hunter under the software name sequentially would also have been obvious by virtue of the rationale as set forth from therein.

As per claim 8, official notice is taken that vendors of software application or executable providing a particular file extension proprietary to their application program or configuration files was a known concept at the time the invention was made (e.g. .zip file for PKzip, .cpp file for C++, .java file for Sun-Microsystems, .ejb for Enterprise Java Beans 2, .ins for InstallShield Script; .mdl file for Rational Rose) and if the company happens to be, for example, Baytex Organix, Inc., then the choosing of a program product application file having an extension of the form .bto would also have been obvious because according to the above known practice, this extension as noted thus better symbolically representing the company name or market distinction when the company is claiming proprietary rights to its particular program application product.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan A Vu whose telephone number is (703)305-7207. The examiner can normally be reached on 8AM-4:30PM/Mon-Fri.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (703)305-9662.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9306 (for formal communications intended for entry)


or: (703) 746-8734 (for informal or draft communications, please label

"PROPOSED" or "DRAFT" – please consult Examiner before use)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington. VA. , 22202. 4th Floor(Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding
should be directed to the receptionist whose telephone number is (703) 305-3900.

VAT
September 27, 2004


KAKALI CHAKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100